

## **REMARKS**

### **Support for the amendments**

The amendments to the claims merely place further limitations on the claims as originally filed and thus does not constitute new matter.

### **Oath/Declaration**

The Office has objected to the oath/declaration for failing to include the residence and mailing or post office of inventor Ronald Breaker. The Applicants enclose herewith an application data sheet providing that information.

### **Rejection of claims 9 and 10 under 35 U.S.C. § 112**

The Office action has rejected claims 9 and 10 under 35 U.S.C. 112, first paragraph. The Applicants respectfully traverse. However, in order to expedite prosecution of the instant application, claims 9 and 10 have been cancelled, thus obviating the rejection.

### **Rejection of claims 33-35 and 37-39 under 35 U.S.C. § 101**

The Office Action has rejected claims 33-35 and 37-39 under 35 U.S.C. 101 under the assertion that they read on a human being. The Applicants respectfully traverse this assertion. Claims 33-35 and 37-39 recite cells. However, in order to clarify the nature of the claims, the Applicants have amended the claims to recite "isolated cell," which does not read on a human being. Thus the Applicants respectfully request the Examiner reconsider and withdraw the rejection under 35 U.S.C. 101.

### **Rejection of claims 1, 3-8, 12-16, 18-23, 26-40, and 46-47 under 35 U.S.C. § 102**

(A) The Office Action has rejected claims 1, 3, 5-6, 12-16, 18-23, 26-40, and 46-47 under 35 U.S.C. 102(b) under the assertion that they are anticipated by Sioud et al. (U.S. Patent No. 5,864,028). The Applicants respectfully traverse. However, in order to expedite prosecution of the instant application, claims 1, 3, and 5-6 have been cancelled, and claims 12-16, 18-23, 26-40, and 46-47 have been amended to depend only on Claim 2, which stands as allowed.

**(B)** The Office Action has rejected claims 1, 4, 7, and 8 under 35 U.S.C. 102(b) under the assertion that they are anticipated by Mandelbaum et al. (U.S. Patent No. 5,508,193). Claims 1, 4, 7, and 8 have been cancelled, thus obviating the rejection.

**Rejection of claims 11, 17, 19-25, and 47-49 under 35 U.S.C. § 103**

The Office Action has rejected claims 11, 17, 19-25, and 47-49 under 35 U.S.C. 103(a) as being obvious over Sioud et al. (U.S. Patent No. 5,864,028) in view of Beigelman et al. (U.S. Patent No. 5,672,511) and Haseloff et al. (U.S. Patent No. 5,641,673). The Applicants respectfully traverse. However, in order to expedite prosecution of the instant application, claim 11 has been cancelled, and claims 17, 19-25, and 47-49 have been amended to depend only on Claim 2, which stands as allowed.

Given the above, the applicant believes the application is in condition for allowance. If there are any questions or comments regarding this Response or application, the Examiner is encouraged to contact the undersigned agent as indicated below.

Respectfully submitted,

Date: May 1, 2003

Sherri L. Oslick

Sherri L. Oslick  
Registration No. 52,087

Telephone: 312-913-0001  
Facsimile: 312-913-0002

**McDonnell Boehnen Hulbert & Berghoff**  
300 South Wacker Drive  
Chicago, IL 60606